



**COUNTY OF
CHESTERFIELD
VIRGINIA
MEMO**

TO: Chesterfield County Planning Commission
Kirkland A. Turner, Director of Planning

FROM: Rob Robinson, Assistant County Attorney

DATE: September 11, 2007

RE: VDOT and State Agency Review of Subdivision Plats & Site Plans

The General Assembly at its 2007 session adopted new legislation that requires localities to send subdivision plats and site plans to VDOT and other applicable state agencies for review within ten business days of receipt if a feature on the plat or plan needs to be approved by the state agency. Once the locality receives the necessary approvals, it must act on the plat or plan within 35 days.

While the County already forwards subdivision plats and site plans to state agencies, the subdivision and zoning ordinances need to be amended to reflect the legislation. The attached amendments also clarify the County's ordinances by incorporating the existing state code provisions (i) requiring that the County act within 45 days of any resubmission of revised plats or plans and (ii) providing an applicant with an appeal to Circuit Court if the County does not act within 90 calendar days (the current ordinance states 60 days).

The Board of Supervisors has referred the matter to the Planning Commission for public hearing and recommendation. Staff requests that the Planning Commission hold a public hearing on the attached amendments at the Commission's October 16, 2007 meeting.

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AN ORDINANCE TO AMEND THE CODE OF THE COUNTY
OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING AND REENACTING
SECTIONS 17-32, 17-33 AND 17-45 OF THE SUBDIVISION ORDINANCE AND
SECTIONS 19-265, 19-268 AND 19-269 OF THE ZONING ORDINANCE RELATING TO
SUBMISSION OF SUBDIVISION PLATS AND SITE PLANS TO STATE AGENCIES AND
THE DEADLINES FOR THE COUNTY TO ACT ON SUCH PLATS AND PLANS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) *That the Code of the County of Chesterfield, 1997, as amended, is amended by amending and reenacting Sections 17-32, 17-33, 17-45, 19-265, 19-268 and 19-269 as follows:*

Sec. 17-32. Procedure for lot subdivision approval.

(a) Following is a summary of the approval procedure for subdivisions.

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(9) If approval of a feature of a plat or construction plans by a state agency or public authority authorized by state law is necessary, the director of planning shall forward the plat or plans to the appropriate state agency or agencies for review within ten business days of receipt.

(b) Procedure for approving tentative plats, adjusted tentative plats and tentative renewals.

(1) Unless otherwise required, completed applications and plats submitted by subdividers to the director of planning, shall be reviewed and approved under the administrative review and approval procedure set forth in subsection (a) of this section unless the subdivider elects to submit the completed application and plat for review and approval under the planning commission review and approval procedure set forth in subsection (b) of this section. During the administrative review procedure, the subdivider or director of planning may amend the application and refer the plat to the planning commission for approval. The submission to the director of planning of a completed application shall grant the county and its agents the right to enter the property at all reasonable times for the purpose of inspecting the property in conjunction with the review of the proposed subdivision.

a. The following procedure shall be followed for administrative review and approval of tentative plats and adjusted tentative plats:

1. The subdivider shall prepare a tentative plat for all proposed subdivisions excluding minor subdivisions in accordance with the provisions of division 2 of this article, and submit such plat to the director of planning who shall determine that the plat is in conformity with the provisions of this chapter, and obtain recommendations from the applicable departments and other public entities. The subdivider shall have the right to defer

receipt of the recommendations for a maximum of 90 calendar days from the date of submission. The deferral request shall be made in writing to the director of planning. After receipt of such recommendations, the director of planning shall:

- (i) Approve such graphically correct tentative plat submission with or without conditions. Approval shall be made not less than 22 calendar days nor more 30 calendar days after receipt of a complete tentative plat submission or, if a response from a state agency pursuant to section 17-32(a)(9) is necessary, the director of planning shall act on the plat within 35 days of receipt of the approvals from all state agencies unless the subdivider requests a deferral, or
- (ii) Disapprove the tentative plat providing written findings giving specific reasons for disapproval to the subdivider within 30 calendar days after receipt of a complete tentative plat submission unless the subdivider requests a deferral. Such reasons shall relate to issues which prevent the approval of the plat. If a response from a state agency pursuant to section 17-32(a)(9) is necessary, the director of planning shall act on the plat within 35 days of receipt of the approvals from all state agencies.
- (iii) Refer the plat to the planning commission for review, if the director receives written request from an adjacent property owner or property owner directly across the street from the property or an adjacent property owner within 15 calendar days of the date of the sign posting and such request relates to the proposed location of streets, water, wastewater, stormwater conveyance systems, and stormwater facilities or to the implementation of conditions of zoning required to be complied with at time of tentative plat approval.
- (iv) If the director of planning fails to approve or disapprove a tentative plat, adjusted plat or tentative renewal within ~~60~~ 90 calendar days after submittal of the tentative, unless the subdivider requests a deferral, the subdivider may petition the Chesterfield Circuit Court in accordance with state law.

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- b. The following procedure shall be followed for planning commission review and approval of tentative plats:
 - 1. The subdivider shall prepare a tentative plat which is in accordance with the provisions of division 2 of this article. The director of planning shall obtain the recommendations from the applicable departments and other public entities and submit a report to the planning commission outlining

the recommendations. After receipt of such report, the planning commission shall make one of the following two decisions.

- (i) Approve such tentative plat with or without conditions within 60 calendar days after submission of the completed application including a referral of the final approval to staff to insure that any required graphical changes are made. Deferral of approval of the plat at the subdivider's request to enable the subdivider to make changes shall be deemed to extend the decision deadline date.
- (ii) Disapprove the tentative plat within 60 calendar days after submission of the completed application. Written findings giving specific reasons for disapproval shall be reported to the subdivider at the time of disapproval. Such reasons shall also state the modifications or corrections as will permit approval of the plat. Deferral of approval of the plat at the subdivider's request to enable the subdivider to make changes shall be deemed to extend the decision deadline date.

If a response from a state agency pursuant to section 17-32(a)(9) is necessary, the planning commission shall act on the plat within 45 days of receipt of the approvals from all state agencies, provided however the commission shall not be required to approve a tentative plat in less than 60 days from the date of its original submission.

If the planning commission fails to approve or disapprove a tentative plat, adjusted plat or tentative renewal within ~~60~~ 90 calendar days after submission of the completed application the subdivider may petition the Chesterfield Circuit Court in accordance with state law. Any deferral at the subdivider's request shall be deemed to have extended the decision deadline date.

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e. Procedure for review of final check plats.

1. Prior to submitting final check plats for subdivisions that require construction plans, subdividers shall submit those plans and obtain approval from the director of environmental engineering.

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3. The director of planning shall review the final check plat and all necessary certificates to determine its conformity with the approved tentative plat if applicable and the requirements established in this chapter and obtain comments from other departments and public entities within 30 calendar days of its submission unless the time is extended by written request of the subdivider. He shall act on any plat that he has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted

for approval. If a response from a state agency pursuant to section 17-32(a)(9) is necessary, he shall act on the plat within 35 days of receipt of the approvals from all state agencies. The director of planning shall notify the subdivider of required changes to incorporate in the preparation of the record plat; or send such plat to the planning commission for their recommendation as to final action thereon if the subdivider and director of planning differ as to the plats compliance with requirements of the Code or tentative conditions.

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Sec. 17-33. Procedure for appeals.

- (a) If the director of planning or the planning commission does not act upon the proposed tentative plat within ~~60~~ 90 calendar days from the date the completed application has been submitted, the subdivider, after ten calendar days written notice to the planning commission, may petition the circuit court of the county to decide whether the plat should or should not be approved in accordance with state law. Deferral of approval of the tentative plat at the subdivider's request to enable the subdivider to make changes shall be deemed to extend the decision deadline date.
- (b) If the director of planning or the planning commission takes action on a tentative plat and the subdivider contends that such action was not consistent with this chapter, or was arbitrary or capricious, an appeal may be filed with the circuit court of the county in accordance with state law.
- (c) If the director of planning or the planning commission does not act upon the proposed final check or record plat within 60 calendar days from the date the application was submitted, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to section 17-32(a)(9), the subdivider, after ten calendar days written notice to the planning commission, may petition the circuit court of the county to decide whether the plat should or should not be approved in accordance with state law. Deferral of approval of the plat at the subdivider's request to enable the subdivider to make changes shall be deemed to extend the decision deadline date.
- (d) If the director of planning or the planning commission takes action on a final check or record plat and the subdivider contends that such action was not consistent with this chapter, or was arbitrary or capricious, an appeal may be filed with the circuit court of the county in accordance with state law.

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Sec. 17-45. Procedure for residential parcel subdivision and parcel property line modification approval.

All completed applications and plats shall be submitted by subdividers to the director of planning to be reviewed and approved administratively as set forth below. During the review, the

subdivider or director of planning may amend the application and refer the plat to the planning commission for approval. The submission to the director of planning of a completed application shall grant the county and its agents the right to enter the property at all reasonable times for the purpose of inspecting the property in conjunction with the review of the proposed subdivision. If approval of a feature of the plat by a state agency or public authority authorized by state law is necessary, the director of planning shall forward the plat to the appropriate state agency or agencies for review within ten business days of receipt.

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Sec. 19-265. Site plan processing.

- (a) At the time a site plan is submitted, the applicant shall elect whether to seek approval under the minor site plan review process, set forth in section 19-267, the administrative site plan review process set forth in section 19-268 or the planning commission site plan review process set forth in section 19-269. If the applicant fails to make a selection, his application will be processed under the administrative site plan review process unless a condition of zoning approval requires the site plan to be submitted to the planning commission.
- (b) The director of planning shall send written notice of site plan submission to adjacent property owners by registered, certified or first class mail as soon after site plan submission as practicable, but in no event less than ten days prior to approval or disapproval of the site plan. The minimum period for site plan approval shall be extended to 21 days when an aggrieved person, as defined by section 19-268.1, files a written request with the planning department within ten days after written notice is sent. If such written notice is sent by first class mail, the director of planning shall make affidavit that such notice has been sent and shall file the affidavit with the application. This subsection shall not be applicable to those site plans which are approved pursuant to the minor site plan review process.
- (c) If approval of a feature of a site plan by a state agency or public authority authorized by state law is necessary, the director of planning shall forward the site plan to the appropriate state agency or agencies for review within ten business days of receipt.

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Sec. 19-268. Administrative site plan review process.

- (a) All site plans which are properly submitted for administrative review in accordance with the county's site plan application and checklist shall be reviewed and recommended for approval or denial by:
 - (1) The director of planning relative to:
 - a. Compliance with the requirements of this chapter, including, but not limited to, setbacks, side and rear yards, building height, lot area and lot coverage, fencing,

screening, landscaping, lighting, architectural design, pedestrian access and conditions of zoning approval.

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- (c) The director of planning shall approve or disapprove site plans in writing, giving specific reasons in accordance with the reviewing authorities' recommendations. He shall notify the applicant of his decision to approve or disapprove the site plan within 30 days of the date of submission of the plan, if practicable. He shall act on any proposed site plan that he has previously disapproved within 45 days after the site plan has been modified, corrected and resubmitted for approval or, if a response from a state agency pursuant to section 19-265(c) is necessary, he shall act on the site plan within 35 days of receipt of the approvals from all state agencies. If the director of planning fails to approve or disapprove the site plan within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to section 19-265(c), the applicant, after ten days' written notice to the director of planning, may petition the circuit court to decide whether the site plan should or should not be approved.
- (d) If the applicant disagrees with the final decision of the director of planning, he may file a written appeal with the planning commission within 15 days of that decision. In addition, any aggrieved person may file a written appeal of the final decision of the director of planning with the planning commission within 15 days of that decision. The appeal must explain how the site plan will adversely affect the person and is limited to the following matters:
- (1) Designation of Chesapeake Bay Preservation areas;
 - (2) Access and internal circulation;
 - (3) Improvement sketch processing;
 - (4) Location of water and sewer lines;
 - (5) Buffers and screening;
 - (6) Land use transitions;
 - (7) Drainage;
 - (8) Conditions of zoning approval;
 - (9) Architectural treatment;
 - (10) Development features affecting public safety; or
 - (11) Development features affecting nearby residential areas.

The commission shall fix a reasonable time for hearing the appeal and decide the same within 60 days of the applicant's site plan submission as extended by any time periods applicable pursuant to section 19-268(c). The commission may affirm, modify or reverse the decision. Until the planning commission renders a decision, neither a building permit nor a land disturbance permit shall be issued for any construction that could be affected by the appeal. In addition, the director of planning shall issue a stop work order to the applicant instructing the applicant to cease any construction that could be affected by the appeal.

Sec. 19-269. Planning commission site plan review process.

All site plans which are properly submitted for planning commission review in accordance with the county's site plan application and checklist shall be reviewed and approved or denied as follows:

- (a) The appropriate departments and/or agencies shall review and make recommendations as outlined in section 19-268(a).
 - (b) The director of planning shall post a notice of the site plan public meeting in accordance with section 19-26(b).
 - (c) The director of planning shall submit recommendations to the planning commission. The planning commission shall approve, with or without conditions, or disapprove the site plan in writing, giving specific reasons in accordance with the reviewing authorities' recommendations. The planning commission shall act on any proposed site plan that it has previously disapproved within 45 days after the site plan has been modified, corrected and resubmitted for approval. If a response from a state agency pursuant to section 19-265(c) is necessary, the planning commission shall act on the site plan within 35 days of receipt of the approvals from all state agencies.
 - (d) If the planning commission fails to approve or disapprove the proposed site plan within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to section 19-265(c), the applicant, after ten days' notice to the commission, may petition the circuit court to decide whether the site plan should or should not be approved.
 - (e) If the applicant disagrees with the final decision of the planning commission, he may file a written appeal with the circuit court within 60 days of that decision. In addition, any aggrieved person may contest the planning commission's final decision if permitted by state law.
- (2) *That this ordinance shall become effective immediately upon adoption.*